

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SINT, LLC and SLEEPY'S, LLC,

Plaintiffs,

V.

SLEEPY BEDDING & FURNITURE, CORP.,

Defendant.

Civil Action No.
08-cv-01841 (PAC)

NOTICE OF FILING

August 27, 2008

NOTICE OF FILING

Pursuant to Local Rule 55.2 and the Individual Practices of Judge Crotty Rule 3(L)(1), Plaintiffs, Sint, LLC and Sleepy's, LLC, hereby submit to the Court a proposed executable Default Judgment, attached hereto as Exhibit A, in connection with Plaintiffs' pending Motion for Default Judgment (D.I. #10-12).

Respectfully submitted, this 27th day of August, 2008.

SINT, LLC and SLEEPY'S, LLC

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Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

It is hereby certified that on this day a true copy of the foregoing NOTICE OF FILING was filed electronically and served by mail on anyone unable to accept electronic filing. Notice of this filing will be sent by e-mail to all parties by operation of the Court's electronic filing system or by mail to anyone unable to accept electronic filing as indicated on the Notice of Electronic Filing. Parties may access this filing through the Court's CM/ECF System.

Dated: August 27, 2008.

/s/ Laura A. Chubb
Laura A. Chubb

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EXHIBIT A

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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DEFAULT JUDGMENT

This action having been commenced on February 25, 2008 by the filing of the Summons and Complaint, and a copy of the Summons and Complaint having been personally served on the defendant, Sleepy Bedding & Furniture, Corp., and a proof of service having been filed on February 29, 2008 and the Defendant not having answered the Complaint, and the time for answering the Complaint having expired it is

ORDERED, ADJUDGED and DECREED: That the Plaintiffs have judgment against Defendant as follows:

1. Pursuant to 15 U.S.C. § 1116(a) and N.Y. Gen. Bus. Law § 360-*l*, Defendant Sleepy Bedding & Furniture, Corp., its officers, directors, principals, agents, servants, employees, successors, assigns, affiliates, licensees, manufacturers, distributors, and all that are in active concert or participation with it, or any of them, are permanently enjoined and restrained from:

a. using in interstate commerce or otherwise making commercial use of the marks or names SLEEPY and/or SLEEPY BEDDING & FURNITURE or

any variation thereof which is confusingly similar to the SLEEPY'S Mark, as reflected in U.S. Trademark Registration No. 1,265,009 and as used by Plaintiffs under the common law;

- b. making any statement or representation whatsoever with respect to the infringing goods and services at issue that either falsely designates Plaintiffs as the origin of the goods or is otherwise false or misleading with respect to the origin of the goods;
- c. otherwise imitating, copying, making unauthorized use of or infringing upon the SLEEPY'S Mark;
- d. conducting business under the name "Sleepy Bedding & Furniture, Corp." or any name that is confusingly similar to the SLEEPY'S Mark;
- e. engaging in any other conduct that would cause or is likely to cause confusion, mistake, or misunderstanding as to the source, affiliation, connection, or association of Defendant or Defendant's goods and services with Plaintiffs or Plaintiffs' goods and services;
- f. competing unfairly with Plaintiffs in any manner; and
- g. engaging in any other activity, including the effectuation of assignments or transfers of their interests in the SLEEPY BEDDING & FURNITURE name, mark or business or the formation of other corporations, partnerships, associations or other entities or the utilization of any other devices, for the purpose of circumventing, evading, avoiding or otherwise violating the prohibitions set forth herein;

2. Pursuant to 15 U.S.C. § 1118, Defendant is ordered to deliver up for destruction upon entry of judgment any and all copies of materials used by Defendant to advertise, promote, or solicit sales for Defendant's goods or services using the marks or names SLEEPY and/or SLEEPY BEDDING & FURNITURE;

3. Plaintiffs are awarded, and Defendant is ordered to pay, the costs, reasonable attorneys' fees and investigatory fees incurred by Plaintiffs, in the amount of \$11,343.98 (\$10,839.00 in attorneys' fees; \$ 504.98 in costs);

4. Defendant and its officers, agents, servants, employees and attorneys, and those persons in active concert or participation with them who receive actual notice hereof by personal service or otherwise, are enjoined and restrained, pursuant to 15 U.S.C. §§ 1116 and 1125, from:

- a. using in interstate commerce, and making commercial use of, the domain name "*sleepyfurniture.com*", or any other domain name that is a colorable imitation of or confusingly similar with the SLEEPY'S Mark, in any manner which is likely to cause confusion, or to cause mistake or to deceive with respect to either the affiliation, connection or association with Plaintiffs and the goods and services offered under the SLEEPY'S Mark, or with respect to the origin, sponsorship or approval of the goods, services or commercial activities by Plaintiffs, and further from using the domain name "*sleepyfurniture.com*", or any other domain name incorporating or confusingly similar to the SLEEPY'S Mark, or using such as a metatag or any other form of electronic identifier; and
- b. engaging in any other activity, including the effectuation of assignments or transfers of its interests in the domain name

“*www.sleepyfurniture.com*” or the formation of other corporations, partnerships, associations or other entities or the utilization of any other devices, for the purpose of circumventing, evading, avoiding or otherwise violating the prohibitions set forth herein; and

5. Defendant is ordered to forfeit or cancel its domain name “*www.sleepyfurniture.com*” or the transfer of this domain name to Plaintiffs, pursuant to 15 U.S.C. §1125(d)(1)(C).

Dated: New York, New York

U.S.D.J.

This document was entered on the docket on
